

AMENDMENTS TO THE DRAWINGS

Please replaces Figures 1A and 1B presently on file with amended Figures 1A and 1B submitted herewith, wherein the Figures are now labeled as "Prior Art". No new matter has been added.

REMARKS

In the above-referenced Office Action the Examiner stated that Applicant's arguments with respect to claims 1 - 11 (Note: Claim 1 was cancelled, Claims 7 - 10 were withdrawn and Claim 11 was added by applicant) have been considered but are moot in view of the new ground(s) of rejection.

The Examiner objected to the drawings by stating that "Figures 1A & 1 B should be designated by a legend such as -- Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g)." and requested corrected drawings in compliance with 37 CFR 1.121 (d) in reply to the Office action to avoid abandonment of the application. The Examiner further noted that "The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance."

To comply with the Examiner's requirement, the corrected Figures 1A and 1B are submitted herewith.

Therefore, the Examiner is respectfully requested to withdraw the objections to the drawings.

Next, the Examiner objected to claim 2 because of the following informalities, " Line 4:" said two angle parts..." Should be: "...said two angled parts... ", and requested appropriate correction.

Claim 2 has been amended in response to this Office Action and now specifically recites "...said two ~~angle~~ angled parts..."

Therefore, the Examiner is respectfully requested to withdraw the objection to claim 2.

Furthermore, the Examiner rejected claim 11 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In support of this rejection, the Examiner stated that "The term "are held elastically in a groove" is unclear. It is not known what is meant and encompasses by the term "held elastically". Therefore, it makes the claim indefinite.

The term "...can be deformed elastically..." is uncertain. It is not known what is meant and encompasses by the term. Therefore, it makes the claim indefinite.

Claim 11 recites the limitation "said clamping tool" in page 6, line 6. There is insufficient antecedent basis for this limitation in the claim."

Terms "are held elastically in a groove" and "can be deformed elastically" have been removed from the independent claim 11. Limitation --said clamping tool- is now "said ~~clamping~~ tool". Claim 11 has been further amended to correct various informalities. No new matter has been added.

Therefore, the Examiner is respectfully requested to withdraw the rejection of claim 11 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Moving to a more substantive issue, the Examiner rejected claims 11, 2 - 6 under 35 U.S.C. 102(b) as being anticipated by Gasparini (US 6,644,090 82). In support of this rejection, the Examiner stated that "With respect to claim 11: Gasparini (Abstract, Figs. 14 - 20, Claims) discloses:

A system for fixing a bending tool (1), said tool including two parallel fixing surfaces for fixing by clamping and a retaining groove, said system comprising:

(a) a clamping body (2) having a first clamping surface collaborated with one fixing surface of said tool;

(b) a tool clamp (4) mounted so that it can pivot, said tool clamp having a second clamping surface, said tool clamp being movable between a first tool-clamping position in which fixing

surfaces of said tool are clamped between said first and second clamping surfaces and a second position, in which said second clamping surface is separated from said first surface of said clamping body allowing mounting/demounting of said tool; and

@ a tool retaining member (6) distinct from said clamping body including a number of mutually parallel elastically deformable blades arranged in a same plane (See Fig. 18), each blade having a first end secured to said clamping body, a running part arranged in such a way that, at rest, it is pressed against said first fixing face of said clamping tool and a second end shifted with respect to said first clamping surface of said clamping body (2), said second end having at least a first angled part angled toward said tool (1) with respect to said running part and a second angled part angled in an opposite direction whereby said angled parts, when said blade is at rest are held elastically in a groove of the tool (1) and whereby, when said clamp (4) is in said second position, said running part of said blade can be deformed elastically (see Fig. 16) to allow said angled parts of said elastically deformable blades to be introduced into or extracted from said groove (See Figs. 16 - 20).

While patent drawings are not drawn to scale, relationships clearly shown in the drawings of a reference patent cannot be

disregarded in determining the patentability of claims. See In re Mraz, 59 CCPA 866,455 F.2d 1069, 173 USPQ 25 (1972).

With respect to claim 2: Gasparini (Abstract, Figs. 14 - 20, Claims) further discloses: wherein when said clamp is in said tool-dismounting second position, an assembly constituted by said two angle parts are suitable for deforming under effect of pivoting of said tool so that an end of said second angled part becomes disengaged from said retaining groove (See Fig. 14).

With respect to claim 3: Gasparini (Abstract, Figs. 16 - 20, Claims) further discloses: wherein said second angled parts includes a main portion and said end of said second angled part forms an angle with said main portion (See Figs 16 & 18).

With respect to claim 4: Gasparini (Abstract, Figs. 16 - 20, Claims) further discloses: wherein said top edge of said retaining groove is chamfered (See Figs. 16&18).

With respect to claim 5: Gasparini (Abstract, Figs. 16 - 20, Claims) further discloses: wherein when said clamp is brought into its clamping position, said retaining member (6) exerts a force having a vertical component on said tool (See Fig. 16).

With respect to claim 6: Gasparini (Abstract, Figs. 16 - 20, Claims) further discloses: wherein said end of said second angled part comes into abutment against the top edge of said retaining groove whatever said position of said clamp (4) (See Fig. 18).

The Examiner further stated that "The statements of intended use or field of use, e.g., "for fixing, having, at rest, whereby, wherein, for deforming, etc..." clauses are essentially method limitations or statements of intended or desired use. Thus, these claims as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See In re Pearson, 181 USPQ 641; ~ Yanush, 177 USPQ 705; In re Finsterwalder, 168 USPQ 530; In re Casey, 512 USPQ 235; In re Otto, 136 USPQ 458; Ex parte Masham, 2 USPQ 2nd 1647.

See MPEP § 2114 which states:

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ 2nd 1647.

Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than functions. In re Danly, 120 USPQ 528, 531.

Apparatus claims cover what a device is not what a device does. Hewlett-Packard Co. v. Bausch & Lomb Inc., 15 USPQ2d 1525, 1528.

As set forth in MPEP § 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim."

The Examiner attention is directed to paragraph (c) of the amended independent claim 11, wherein it originally recited that "...each blade having a first end secured to said clamping body..." The Examiner failed to show exactly where Gasparini anticipates such limitation of securing the first end of the blade to the clamping block.

It is further unclear exactly which elements in Gasparini prior art reference that the Examiner understood as the ones that anticipate the clamping block (20) and retaining member (54) and, more particularly its blades (58), of the present invention. If the Examiner understood that safety hook (6) of Gasparini anticipates tool retaining member (54) of the present invention, than such hook (6) is not secured to the clamping block (2) in a fixed position. In column 8 line 10, Gasparini discloses that "...safety hook (6) goes down due to gravitational forces...". Accordingly, the hook (6) is allowed to move in a vertical direction. Furthermore, the Gasparini prior art reference is moot as to such hook (6) being "elastically deformable". The support for limitation "...each blade having a first end secured to said clamping body in a

fixed position..." can be found on page 8 lines 35-36 of the Disclosure.

If the Examiner understood that the spring (7) of Gasparini, which has two angled parts, constitutes the retaining member (54) of the present invention, since the Examiner admitted that Gasparini anticipates first angled part (64) and second angled part (66) of the present invention, than such spring (7) is not fixed to the clamping body (2) and further "does not remain engaged" within the retaining groove of the tool (1). The support for limitation "...remain engaged in said retaining groove..." can be found on page 10 line 18 of the Disclosure. No new matter has been added.

It is important to note that combination of hook (6) and spring (7) of Gasparini is not fixed to the clamping block (2).

Accordingly, Gasparini prior art reference does not anticipate all limitations of the present invention of the independent claim 11. Accordingly, it is believed that now amended independent claim 11 is in a condition for allowance.

Claims 2-6 find their dependency back to independent claim 11 and should be allowable since it is believed that independent claim 11 is in a condition for allowance.

Therefore, the Examiner is respectfully requested to withdraw the rejection of claims 11, 2 - 6 under 35 U.S.C. 102(b) as being anticipated by Gasparini (US 6,644,090 82).

Conclusion

In view of the above amendments to the claims and drawings and the remarks associated therewith, the Applicant believes that independent claim 11 is in a condition for allowance and such allowance by the Examiner is respectfully requested. Since it is believed that independent claim 11 is in condition for allowance, its dependent claims further providing limitations are also in a condition for allowance.

In the event the Examiner has questions regarding this amendment or during the course of the examination and/or allowance of the application, he/she is invited to contact the undersigned agent for applicant by telephone at (412) 380-0725, if necessary to resolve any remaining questions or issues by interview and/or Examiner's Amendment as to any matter.

Respectfully submitted,

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